

REMARKS

The Applicant respectfully requests reconsideration of this application as amended. Claims 1, 10, and 11 have been amended. Two claims, claims 12 and 13, have been added. No claims have been cancelled. Therefore, claims 1-13 are present for examination.

DRAWINGS

In the Office action, the Examiner required new corrected drawings to be submitted. Attached hereto please find a copy of the proposed new replacement drawings, corrected in accordance with 37 C.F.R. § 1.84, for your reference; original replacement drawings have been submitted to the PGPUB DRAWINGS mail stop on a date even herewith. The Examiner's approval is respectfully requested for the proposed replacement drawings.

PRIORITY

In the Office action, the Office has asserted, without explanation, that the effective filing date for the subject matter in the pending claims in this application is November 16, 2001. Applicant traverses this assertion. The filing date of the application including claims 1 – 11 is October 18, 2001 as is correctly indicated on the cover sheet to the Office action, the Filing Receipt (dated 11/19/01), and the Notice to File Missing Parts of Nonprovisional Application (dated 11/19/01). The undersigned believes that the pending claims in the application are entitled to the filing date of October 18, 2001, which has been accorded to the application by the USPTO. As such, the Applicant respectfully requests that the Office withdraw the assertion that the effective filing date for the subject matter in the pending claims in this application is November 16, 2001.

35 U.S.C §102

In the Office action, the Office rejected claims 1-8, 10, and 11 under 35 U.S.C. 102(e) for allegedly being anticipated by U.S. Pub. No. 2005/0010653 of McCanne (hereafter “McCanne”). For at least the reasons given below, the Applicant believes the claims are distinguishable over McCanne.

With regard to claim 1, claim 1 as amended now recites:

A method of content delivery in a network, comprising:
 associating devices in a Domain Name System (DNS) with content server systems located in the network, the content server systems maintaining and serving content of a content provider, each DNS device configured to resolve the name of the content provider to an address for the content server system with which such DNS device is associated;
 assigning to the DNS devices a common address, the common address being usable to resolve the name of the content provider such that a request for content of the content provider by a content requestor is sent to the content server system nearest the content requestor;
 monitoring one or more load characteristics of one or more of the content server systems in the network;
 determining if one or more of the load characteristics exceeds a predefined overload metric; and
 for each content server system having a load characteristic that exceeds the predefined overload metric, discontinuing advertising of the content server system by an associated DNS device.

Amended claim 1 recites, in part, the following: (1) monitoring one or more load characteristics of one or more of the content server systems in the network; (2) determining if one or more of the load characteristics exceeds a predefined overload metric; and (3) for each content server system having a load characteristic that exceeds the predefined overload metric, discontinuing advertising of the content server system by an associated DNS device. Applicant can find no teaching or reasonable suggestion of these elements in McCanne. As such,

Applicant believes that McCanne fails to teach or reasonably suggest all of the elements of claim

1. For at least this reason, claim 1 and its dependent claims are distinguishable over McCanne.

With regard to claims 10 and 11, both claims 10 and 11, as amended, include limitations similar to amended claim 1. As such, for at least the reasons given for claim 1, Applicant believes that claims 10 and 11 and their respective dependents are distinguishable over McCanne.

35 U.S.C §103

In the Office action, the Office rejected claim 9 under 35 U.S.C. 103(a) as allegedly being unpatentable over McCanne in view of U.S. Pub. No. 2005/0010653 of Christensen (hereafter “**Christensen**”). For at least the reasons given below, the Applicant believes the claim 9 is distinguishable over McCanne and Christensen, either separately or in combination.

With regard to claim 9, Claim 9 inherits all the limitations of claim 1. As presently understood by the undersigned Christensen does not teach or reasonably suggest use of at least the following expressly recited claim elements: (1) monitoring one or more load characteristics of one or more of the content server systems in the network; (2) determining if one or more of the load characteristics exceeds a predefined overload metric; and (3) for each content server system having a load characteristic that exceeds the predefined overload metric, discontinuing advertising of the content server system by an associated DNS device. As a result, Christensen does not remedy the deficiencies McCanne with respect to claim 9. Consequently, the combination McCanne and Christensen is no more relevant to monitoring load characteristics, determining if the load characteristic exceeds a predefined metric, and discontinuing advertising of the content server than either taken alone. For at least this reason, claim 9 is distinguishable over the combination McCanne and Christensen.

CLAIMS

NEW CLAIMS

By this amendment, two new claims, claims 12 and 13, have been added to claim additional novel aspects of the present invention and/or round out the depth of the claim coverage. Applicant respectfully submits that the new claims are allowable over the prior art as the new claims depend from claim 1 and thus inherit all of the limitations of claim 1. In addition, Applicant submits that no new matter has been added by the addition of the two new claims.

CONCLUSION

The Applicant respectfully submits that the rejections have been overcome by the amendment and remark, and that the remaining pending claims are now in condition for allowance. Accordingly, the Applicant respectfully requests that the rejections be withdrawn and that a Notice of Allowance be issued for claims 1-13.

INVITATION FOR A TELEPHONE INTERVIEW

The Examiner is requested to call the undersigned at (303)447-7739 if there remains any issue with allowance of the case.

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CHARGE OUR DEPOSIT ACCOUNT

No fee is believed to be necessary for entry of this paper. In the event that any such fee is necessary for the entry of this paper, please charge to our Deposit Account No. 06-0029 any fees under 37 C.F.R. 1.16 and 1.17 which may be requested to enter this paper.

Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include replacement sheets of redrawn Figs. 1-5 and changes to Fig. 5. These sheets, which include redrawn versions of Figs. 1-5 replace the original sheets including Figs. 1-5. In Fig. 5, the DNS Req 92, DNS Req 94, DNS Resp 96, DNS Req 96, and DNS Resp 98 have been renumbered to DNS Req 91, DNS Req 93, DNS Resp 95, DNS Req 97, and DNS Resp 99, respectively. As such, the reference numbers 92, 94, 96, and 98 no longer designate multiple items.